DISTRICT COURT
SAN JUAN COUNTY NM
FILED
2009 JAN 30 PM 4 41

STATE OF NEW MEXICO
ELEVENTH JUDICIAL DISTRICT COURT
COUNTY OF SAN JUAN

STATE OF NEW MEXICO, ex rel. THE STATE ENGINEER,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA, et al.,

Defendants,

vs.

THE JICARILLA APACHE TRIBE and the NAVAJO NATION,

Defendant-Intervenors.

No. CV-75-184

Hon. ROZIER E. SANCHEZ
District Judge *Pro Tempore*

SAN JUAN RIVER STREAM SYSTEM ADJUDICATION

La Plata River Section

PATRICIA L. LUCAS

WALTER G. LUCAS

Court Case No.: AF-01-44

Subfile No.: SJLP-001-0023

CONSENT ORDER

The Court, having considered the agreement between Plaintiff, the State of New Mexico, *ex rel.* the State Engineer ("State") and the Defendant(s) named above (hereinafter referred to as "Defendant" for both single and plural Defendants) regarding Defendant's right to divert and use the waters of the San Juan River Stream System, as set forth below, FINDS:

1. The Court has jurisdiction over the State, the Defendant, and the subject matter of this suit.

2. The water right adjudicated pursuant to paragraph 5 of this Consent Order is part of a water right previously adjudicated in *Echo Ditch Company, et al. v. The McDermott Ditch Company, et al.*, San Juan County District Court, Cause No. 01690 (April 8, 1948). This Consent Order fully and exclusively adjudicates all the elements of the water right(s) described herein.

3. The State and Defendant are in agreement regarding the Court's findings and all elements of Defendant's right to divert and use the public waters of the San Juan River Stream System, as set forth in Paragraph 5 of this Consent Order. This Consent Order and the parties' respective signatures

Dkt'd

below evidence the entire agreement between the State and Defendant regarding the elements of the water rights adjudicated by this Consent Order.

4. Defendant represents that Defendant is the sole current owner of the water rights adjudicated herein, and that Defendant has no other claims to water rights in the La Plata Section except those adjudicated by this Consent Order and the following claims, which are expressly identified herein below and reserved for later adjudication by the Court:

Claims Excluded From This Consent Order:

a. Any claim(s) relating to " the subsisting vested right to demand, divert, and receive and use such amount and amounts of waters, as are from time to time beneficially needed and required, for domestic and stock watering purposes," as described in the *Echo Ditch* Decree.

b. List any other excluded claims:

Defendant claims the right to beneficially use water from the San Juan Underground Water Basin through one or more wells.

5. There is no just reason for delay of final judgment as to the claims adjudicated by this Consent Order. Therefore, except as may be expressly excluded from this Consent Order and reserved for later determination, pursuant to Rule 1-054(B), NMRA (2004), this Consent Order constitutes a final judgment, as between the State and Defendant, of all claims for water rights of the Defendant in the La Plata River Section:

A. IRRIGATED LANDS (Surface Water Only):

Priority: June 30, 1877 (Priority No. 3 in the Echo Ditch Decree) for 0.0437 cfs
November 30, 1884 (Priority No. 13 in the Echo Ditch Decree) for 0.0276 cfs
November 30, 1888 (Priority No. 17 in the Echo Ditch Decree) for 0.0161 cfs

Source of Water: Surface water of the La Plata River, a tributary of the San Juan River.

Purpose of Use: IRRIGATION

Point of Diversion: **Ditch:** PIONEER DITCH
Location: X= 2,621,327 feet **Y=** 2,202,870 feet
New Mexico State Plane Coordinate System, West Zone, NAD 1983

Location and Amount of Irrigated Acreage:

Section 15, Township 32N, Range 13W, N.M.P.M.

Pt. NE¼ 4.7 acres

Total 4.7 acres

As shown on the attached Subfile Map for Tract SJLP-001-0023 of the 2006 La Plata Hydrographic Survey.

Rate of Flow:

0.0437 cfs, Priority Date: June 30, 1877 (Priority No. 3 in the Echo Ditch Decree)
0.0276 cfs, Priority Date: November 30, 1884 (Priority No. 13 in the Echo Ditch Decree)
0.0161 cfs, Priority Date: November 30, 1888 (Priority No. 17 in the Echo Ditch Decree)

Amount of Water: Not to exceed 13.82 acre-feet per annum

B. NO RIGHT (Surface Water Only):

Priority: NONE

Source of Water: Surface water of the La Plata River, a tributary of the San Juan River.

Purpose of Use: NO RIGHT

Point of Diversion: **Ditch:** PIONEER DITCH

Location: X= 2,621,327 feet **Y=** 2,202,870 feet

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Location and Amount of Acreage

Section 15, Township 32N, Range 13W, N.M.P.M.

Pt. NE¼ 0.3 acres

Total 0.3 acres

As shown on the attached Subfile Map for Tract SJLP-001-0023 of the 2006 La Plata Hydrographic Survey.

Rate of Flow:

NONE

Amount of Water: NONE

6. Defendant and Defendant's successors, representatives, heirs, and assigns should be enjoined from any use of the public waters of the San Juan River System except in strict accordance with this Consent Order and other orders of the Court in this cause.

7. The water right(s) described herein should be adjudicated, as between the State and Defendant, subject to the right of any other water right claimant with standing to object prior to entry of a final decree.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

A. All claim(s) of the Defendant to divert and use the public waters of the San Juan River Stream System, La Plata Section, is/are hereby adjudicated, as between the State and Defendant, as set forth herein, except as to those claim(s), and elements thereof, expressly excluded from this Consent Order or reserved for later determination in section-wide proceedings.

B. The Defendant and Defendant's successors, representatives, heirs, and assigns are hereby enjoined from diverting or using public waters of the San Juan River Stream System except in strict accordance with this Consent Order and other orders of the Court in this cause.

C. There is no just reason for delay of final judgment as to the claims adjudicated by this Consent Order. Except as may be expressly excluded from this Consent Order and reserved for later determination, pursuant to Rule 1-054(B), NMRA (2004), this Consent Order constitutes a final judgment, as between the State and Defendant, of all claims for water rights of the Defendant in the La Plata River Section.

D. In the event the Irrigated Tract(s) described herein is/are sold or the water right(s) otherwise transferred, in whole or in part, Defendant shall provide a copy of this Consent Order to the buyer and the buyer shall promptly complete and file a change of ownership form with the Office of the State Engineer in accordance with law.

IT IS SO ORDERED.

ROZIER E. SANCHEZ
District Judge, *Pro Tempore*

APPROVED AND ACCEPTED BY:

ACCEPTED: Walter G. Lucas
WALTER G. LUCAS

ADDRESS: 4643 Barcelona Circle
Farmington NM
87401

DATE: 11-11-08

ACCEPTED: Patricia L. Lucas
PATRICIA L. LUCAS

ADDRESS: 4643 Barcelona Circle
Farmington, N.M.
87401

DATE: 11/11/08

Special Assistant Attorney General

Date: 11/17/2008

Point of Diversion
Ditch
Pond
Land with Irrigation Right
No Right

Grid Interval = 500'
NMSP West NAD83

1:2,400
1 inch equals 200 feet

0 100 200 400 Feet

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State of New Mexico
Office of the State Engineer
John R. D'Antonio, Jr., P.E., State Engineer

San Juan River Stream System
Hydrographic Survey
La Plata River Section

Office of the State Engineer
Interstate Stream Commission

Tract Number
SJLP-001-0023
Pioneer Ditch
July 15, 2008